

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Giansante	Team: Squad #05	CCRB Case #: 202100965	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 02/06/2021 2:32 AM, Saturday, 02/06/2021 2:45 AM	Location of Incident: In front of 506-528 Utica Ave; Rutland Road and Remsen Avenue	Precinct: 71	18 Mo. SOL 8/6/2022	EO SOL 8/6/2022	
Date/Time CV Reported Thu, 02/11/2021 6:11 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 02/11/2021 6:11 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Craig Smith	07105	956272	071 PCT
2. POM Jason Schreckenstein	01340	956247	071 PCT
3. LT Timothy Brovakos	00000	943025	071 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Timothy Brovakos	Abuse: In front of 506-528 Utica Avenue in Brooklyn, Lieutenant Timothy Brovakos stopped the vehicle in which § 87(2)(b) was an occupant.	
B.LT Timothy Brovakos	Abuse: In front of 506-528 Utica Avenue in Brooklyn, Lieutenant Timothy Brovakos interfered with § 87(2)(b) use of a recording device.	
C.LT Timothy Brovakos	Abuse: In front of 506-528 Utica Avenue in Brooklyn, Lieutenant Timothy Brovakos frisked § 87(2)(b)	
D.LT Timothy Brovakos	Abuse: In front of 506-528 Utica Avenue in Brooklyn, Lieutenant Timothy Brovakos searched § 87(2)(b)	
E.LT Timothy Brovakos	Abuse: In front of 506-528 Utica Avenue in Brooklyn, Lieutenant Timothy Brovakos searched the vehicle in which § 87(2)(b) was an occupant.	
F.POM Jason Schreckenstein	Abuse: In front of 506-528 Utica Avenue in Brooklyn, Police Officer Jason Schreckenstein searched the vehicle in which § 87(2)(b) was an occupant.	
G.POM Jason Schreckenstein	Abuse: In front of 506-528 Utica Avenue in Brooklyn, Police Officer Jason Schreckenstein refused to provide his shield number to § 87(2)(b)	
H.PO Craig Smith	Abuse: In front of 506-528 Utica Avenue in Brooklyn, Police Officer Craig Smith refused to provide his shield number to § 87(2)(b)	
I.LT Timothy Brovakos	Off. Language: In front of 506-528 Utica Avenue in Brooklyn, Lieutenant Timothy Brovakos made remarks to § 87(2)(b) based upon race.	
J.LT Timothy Brovakos	Discourtesy: In front of 506-528 Utica Avenue in Brooklyn, Lieutenant Timothy Brovakos spoke discourteously to § 87(2)(b)	
K.LT Timothy Brovakos	Abuse: In front of 506-528 Utica Avenue in Brooklyn, Lieutenant Timothy Brovakos seized § 87(2)(b) property.	

Officer(s)	Allegation	Investigator Recommendation
L.LT Timothy Brovakos	Abuse: In front of 506-528 Utica Avenue in Brooklyn, Lieutenant Timothy Brovakos failed to provide § 87(2)(b) with a business card.	
M.POM Jason Schreckenstein	Abuse: In front of 506-528 Utica Avenue in Brooklyn, Police Officer Jason Schreckenstein failed to provide § 87(2)(b) with a business card.	
N.PO Craig Smith	Abuse: In front of 506-528 Utica Avenue in Brooklyn, Police Officer Craig Smith failed to provide § 87(2)(b) with a business card.	
O.LT Timothy Brovakos	Abuse: At Rutland Road and Remsen Avenue in Brooklyn, Lieutenant Timothy Brovakos interfered with § 87(2)(b) use of a recording device.	
P.LT Timothy Brovakos	Discourtesy: At Rutland Road and Remsen Avenue in Brooklyn, Lieutenant Timothy Brovakos spoke discourteously to § 87(2)(b)	
Q.LT Timothy Brovakos	Abuse: At Rutland Road and Remsen Avenue in Brooklyn, Lieutenant Timothy Brovakos threatened to remove § 87(2)(b) to the hospital.	
§ 87(2)(g), § 87(4-b)		

Case Summary

On February 11, 2021, § 87(2)(b) filed this complaint on the CCRB website (BR01).

On February 6, 2021, at approximately 2:35 a.m., Lieutenant Timothy Brovakos and Police Officers Jason Schreckenstein and Craig Smith of the 71st Precinct stopped § 87(2)(b) vehicle in front of 506-528 Utica Avenue in Brooklyn (**Allegation A: Abuse of Authority**, § 87(2)(g)). When § 87(2)(b) took out his cellphone to film the encounter, Lt. Brovakos ordered him to put his cell phone down, thereby interfering with his use of a recording device (**Allegation B: Abuse of Authority**, § 87(2)(g)). Lt. Brovakos frisked and searched § 87(2)(b) and joined PO Schreckenstein in searching § 87(2)(b) car (**Allegations C–F: Abuse of Authority**, § 87(2)(g)). PO Schreckenstein and PO Smith refused to provide their shield numbers to § 87(2)(b) upon his request (**Allegations G–H: Abuse of Authority**, § 87(2)(g)). Lt. Brovakos allegedly made a remark to § 87(2)(b) based upon his race by insinuating that he was a felon (**Allegation I: Offensive Language**, § 87(2)(g)). Lt. Brovakos did not return § 87(2)(b) vehicle registration at the conclusion of the traffic stop (**Allegation K: Abuse of Authority**, § 87(2)(g)). Lt. Brovakos, PO Schreckenstein, and PO Smith failed to provide § 87(2)(b) with business cards (**Allegations L–N: Abuse of Authority**, § 87(2)(g)). The officers drove away without arresting § 87(2)(b) or issuing him any summonses.

§ 87(2)(b) drove around the nearby area looking for the officers to get his vehicle § 87(2)(g) back. At approximately 2:45 a.m., he flagged them down a few blocks away, at the intersection of Rutland Road and Remsen Avenue in Brooklyn. § 87(2)(b) and Lt. Brovakos, both seated in their cars, began arguing with each other while § 87(2)(b) filmed the encounter. Lt. Brovakos again ordered § 87(2)(b) to put his phone down, which prompted § 87(2)(b) to put his phone down, thereby interfering with his use of a recording device (**Allegation O: Abuse of Authority**, § 87(2)(g)). Lt. Brovakos spoke discourteously to § 87(2)(b) (**Allegation P: Discourtesy**, § 87(2)(g)). Lt. Brovakos allegedly threatened to remove § 87(2)(b) to the hospital (**Allegation Q: Abuse of Authority**, § 87(2)(g)). Lt. Brovakos returned § 87(2)(b) registration and drove away without arresting him or issuing him any summonses. § 87(2)(g), § 87(4-b)

The investigation obtained BWC footage from Lt. Brovakos, PO Schreckenstein, and PO Smith (BR07-09, summarized in BR10). The investigation also obtained § 87(2)(b) cellphone footage (BR03-04, summarized in BR05). All references to video evidence below refer to the timestamp in the video player, not to any on-screen clock embedded in the footage itself.

On September 8, 2021, this case was reassigned from Inv. Connor O’Shea to Inv. Emmitt Sklar, after Inv. O’Shea’s departure from the CCRB.

Findings and Recommendations

Allegation (A) Abuse of Authority: In front of 506-528 Utica Avenue in Brooklyn, Lieutenant Timothy Brovakos stopped the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) testified that his vehicle had four lightly tinted cabin windows (BR02). The back and front windshields were not tinted at all. He did not know the exact light transmittance level of the cabin windows, but he affirmed that it is possible to clearly see through the windows even at night. Lt. Brovakos told him during the stop that he had unlawful tints. § 87(2)(b) replied that they were only “light tints.” He also told Lt. Brovakos that he should have just issued him a summons for the tints instead of going through the hassle of searching his car.

Lt. Brovakos was interviewed four months after the incident (BR14). He testified that he was unable to see § 87(2)(b) through his driver's side window, even with bright streetlights and a clear sky illuminating the car. He knew from experience and observation that these tints were illegal. Lt. Brovakos made the decision to stop § 87(2)(b) vehicle.

In Lt. Brovakos' BWC, § 87(2)(b) driver's side front window is already fully lowered (BR07, at 01:04). The driver's side rear window is only lowered halfway. This window has a distinct tint that appears opaque compared to the open portion of the window frame. Although it was dark out, the surrounding area is well lit by streetlights. Lt. Brovakos told § 87(2)(b) that he had "dark tints," and § 87(2)(b) disputed this by saying, "Ain't no dark tints." Lt. Brovakos told § 87(2)(b) that he was going to give him a break by not issuing him a summons for the window tints.

PO Smith testified that he also saw prior to the stop that § 87(2)(b) windows were unlawfully tinted (BR12). PO Schreckenstein testified that he did not see the level of tint from inside the police vehicle (BR13).

Based upon § 87(2)(b) admission that the windows had some level of tint, the apparent tint seen in the BWC footage, and § 87(2)(b) statement to Lt. Brovakos during the incident that he should have issued him a summons for the window tints, the investigation credited Lt. Brovakos' testimony that § 87(2)(b) vehicle's windows were illegally tinted.

According to NYS Vehicle and Traffic Law § 375(12-a)(b), it is a traffic violation to operate a vehicle with window tints that transmit less than 70% of light (BR24).

§ 87(2)(g)

Allegation (B) Abuse of Authority: In front of 506-528 Utica Avenue in Brooklyn, Lieutenant Timothy Brovakos interfered with § 87(2)(b) use of a recording device.

§ 87(2)(b) recounted that he had two cellphones, and that he took one out and announced to the officers that he intended to film the encounter when Lt. Brovakos ordered him to exit the car. Lt. Brovakos told § 87(2)(b) that he did not need to record anything and to simply exit the car. § 87(2)(b) initially verbally refused to exit the car until Lt. Brovakos opened the door. At that point, Lt. Brovakos removed § 87(2)(b) cellphone from his hand and placed it inside of the car on the dashboard. § 87(2)(b) still intended to record the encounter using that phone, so he believed that Lt. Brovakos actions interfered with his ability to do so. § 87(2)(b) did record a cellphone video later during the incident with his second cellphone, but this footage (BR04) begins only after the officers have already begun searching the trunk and does not temporally capture the frisk or search of § 87(2)(b) nor the search of the passenger compartment.

The BWC footage is almost entirely consistent with § 87(2)(b) account of this portion of the incident. Lt. Brovakos' BWC (BR07, 01:00-4:32) shows that he and § 87(2)(b) did argue about § 87(2)(b) complying with his commands to exit the car. Before § 87(2)(b) exits the car, Lt. Brovakos says in the footage, "You're gonna put your phone down and you're gonna step out of the car." § 87(2)(b) says he is going to record the encounter. Lt. Brovakos says, "You're allowed to, but you're gonna put this down," ostensibly referring to his cellphone. § 87(2)(b) says he wants to record. Lt. Brovakos says the officers are recording the incident and repeats his command to exit the car. § 87(2)(b) then exits the car. Lt. Brovakos' BWC footage does not show whether he removed § 87(2)(b)

phone from his hands as alleged.

PO Schreckenstein's BWC (BR08, 01:00-02:00) provides an alternate angle and shows Lt. Brovakos reaching his left hand into § 87(2)(b) car toward his cellphone as § 87(2)(b) says he will record the officers. That area of the car is then obscured by the door frame as PO Schreckenstein opens the front passenger door. However, once the passenger door is open, the footage shows Lt. Brovakos taking his empty left hand back away from the dashboard, in a movement consistent with having removed § 87(2)(b) cellphone out of his hand and placed it on the dashboard.

Lt. Brovakos testified that § 87(2)(b) began filming with his phone when the officers first approached the vehicle. He did not testify to directing him to stop recording at that time or to taking his phone and placing it on his dashboard. As will be detailed below, Lt. Brovakos smelled an odor of marijuana emanating from the vehicle and frisked § 87(2)(b) once he was out of the vehicle. Lt. Brovakos testified that he did direct § 87(2)(b) to put his cellphone down while he frisked him. He wanted § 87(2)(b) hands free during the frisk, so he did not have to worry about § 87(2)(b) using the phone as a weapon.

NYC Administrative Code § 14-189 (BR06) codifies the public's right to record police activities. It states, however, that this right should "not be construed to permit a person to engage in actions that physically interfere with an official and lawful police function... or to prohibit any officer from enforcing any other provision of law." The law also establishes an affirmative defense for police officers, provided that "a reasonable officer in the position of such officer would have had probable cause to believe that the person recording police activities physically interfered with an official and lawful police function, or that such officer's actions were otherwise authorized by law." Similarly, Patrol Guide Procedure 203-29 (BR19) states that a civilian's right to record can be limited for reasons such as the safety of officers or when a violation of law is committed by the person who is filming.

The question of whether Lt. Brovakos made § 87(2)(b) stop holding his cellphone immediately before he exited the vehicle or at the moment the frisk started is immaterial, as Lt. Brovakos already knew he would be frisking § 87(2)(b) when he ordered him to exit the vehicle. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation (C) Abuse of Authority: In front of 506-528 Utica Avenue in Brooklyn, Lieutenant Timothy Brovakos frisked § 87(2)(b)

Allegation (D) Abuse of Authority: In front of 506-528 Utica Avenue in Brooklyn, Lieutenant Timothy Brovakos searched § 87(2)(b)

Allegation (E) Abuse of Authority: In front of 506-528 Utica Avenue in Brooklyn, Lieutenant Timothy Brovakos searched the vehicle in which § 87(2)(b) was an occupant.

Allegation (F) Abuse of Authority: In front of 506-528 Utica Avenue in Brooklyn, Police Officer Jason Schreckenstein searched the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that Lt. Brovakos frisked and searched § 87(2)(b) and that he and PO Schreckenstein searched the vehicle.

§ 87(2)(b) testified that there was no marijuana or its odor in the vehicle during the incident. He denied that he smokes marijuana generally.

Lt. Brovakos testified that he smelled “fresh and distinct” burning marijuana when he stood next to § 87(2)(b) driver’s door. There were no other people or cars nearby and the smell was powerful, so he knew the odor came from § 87(2)(b) car. While Lt. Brovakos did not visually observe anything in the car that indicated marijuana, § 87(2)(b) glassy eyes indicated that he might be under the influence of marijuana. At the time, § 87(2)(b) denied that he or anyone else had been smoking in the car. Lt. Brovakos ordered § 87(2)(b) out of the car to look for evidence that he was smoking while driving. He believed that the smell of burning marijuana gave him probable cause to conduct a frisk. He patted down § 87(2)(b) chest area, upper thigh, belt, hip area, and pockets. Lt. Brovakos acknowledged that he may also have searched § 87(2)(b) pockets. He did not find any contraband on § 87(2)(b) person.

PO Schreckenstein testified that he smelled burnt marijuana when he reached § 87(2)(b) passenger door. PO Smith could not say whether anything, including smell, indicated that marijuana was present.

Lt. Brovakos’s BWC footage confirms that he entered § 87(2)(b) pocket after frisking him to take his car keys, and that he and PO Schreckenstein searched the vehicle.

With regard to the odor of marijuana, the video footage confirms that Lt. Brovakos discussed it with § 87(2)(b) during the incident. Lt. Brovakos’s BWC footage shows that he told § 87(2)(b) “I don’t know if you were smoking weed in the car or if you if you smoked before... or if your friends were smoking” (BR07, 03:05). § 87(2)(b) cellphone footage shows that he told the officers that there was no weed in the car and that he did not smoke (BR03, 00:35). However, § 87(2)(b) did acknowledge to the officers that the vehicle did not belong to him. In § 87(2)(b) later cellphone footage from the second interaction, he protested to Lt. Brovakos, “You’re talking about ‘Do I smoke weed?’ I don’t smoke no drugs” (BR04, 00:56). Later, Lt. Brovakos told him, “The car stinks like weed. What do you want me to tell you?” (BR04, 02:37).

Absent additional evidence, the investigation could not determine if there was an odor of marijuana emanating from § 87(2)(b) vehicle.

The odor of burning marijuana emanating from a vehicle during a traffic stop gives officers probable cause to search the vehicle and its occupants. *People v. Chestnut*, 43 A.D.2d 260 (1974) (BR20).

§ 87(2)(g)

Allegation (G) Abuse of Authority: In front of 506-528 Utica Avenue in Brooklyn, Police Officer Jason Schreckenstein refused to provide his shield number to § 87(2)(b)
Allegation (H) Abuse of Authority: In front of 506-528 Utica Avenue in Brooklyn, Police Officer Craig Smith refused to provide his shield number to § 87(2)(b)

It is undisputed that PO Schreckenstein and PO Smith never provided their shield numbers to § 87(2)(b)

§ 87(2)(b) testified that he repeatedly requested PO Shreckenstein’s shield number, and PO Schreckenstein never provided it.

§ 87(2)(b) cellphone footage shows that he told the officers, “Nah, I want y’all badge numbers and all that, bro” (BR03, 00:43). He was only a few feet away from all three of the officers when he made the request. Lt. Brovakos replied, “My name’s Lieutenant Brovakos, okay? I don’t have a badge number.” PO Schreckenstein and PO Smith did not reply. § 87(2)(b) followed up by turning the camera in the direction of PO Schreckenstein and asking, “So you have a badge number?” PO Schreckenstein’s BWC footage shows that he responded, “Sure do,” and then never stated the number aloud (BR08, 03:45).

PO Schreckenstein initially testified that he did not provide his shield number because § 87(2)(b) never asked for it. After viewing his BWC footage, he testified that he did not hear § 87(2)(b) say, “I want y’all badge numbers.” He confirmed that he responded to § 87(2)(b) asking, “Do you have a shield number?” by saying, “Sure do.” PO Schreckenstein had heard Lt. Brovakos tell § 87(2)(b) that lieutenants do not have a badge number, so he felt that he was being asked to confirm that he, as an officer, had a number. He did not think he was being asked for his badge number specifically.

PO Smith confirmed in his CCRB interview that § 87(2)(b) asked officers for their shield numbers, but he also stated that § 87(2)(b) never asked him for his number. After watching the cellphone footage, PO Smith testified that he had not heard § 87(2)(b) say “y’all” during the incident when requesting shield numbers, and he noted that § 87(2)(b) was not looking at him at that moment. He maintained that he did not understand § 87(2)(b) to have been asking each officer for a shield number, and that he would have given his number to § 87(2)(b) if he had asked him directly.

Lt. Brovakos testified that he did not recall whether § 87(2)(b) asked other officers for their shield numbers.

Patrol Guide Procedure 203-09 states that an officer must “courteously and clearly state [his] rank, name, shield number, and command, or otherwise provide them, to anyone who requests [he] do so” (BR16).

The video footage clearly shows that PO Schreckenstein and PO Smith were close enough to hear § 87(2)(b) request all the officers’ shield numbers, and that neither one of them replied appropriately. Moreover, PO Schreckenstein failed to provide his shield number again when § 87(2)(b) directly asked him if he had such a number. § 87(2)(g)

Allegation (I) Offensive Language: In front of 506-528 Utica Avenue in Brooklyn, Lieutenant Timothy Brovakos made remarks to § 87(2)(b) based upon race.

Allegation (J) Discourtesy: In front of 506-528 Utica Avenue in Brooklyn, Lieutenant Timothy Brovakos spoke discourteously to § 87(2)(b)

§ 87(2)(b) had a PBA card from his cousin, who is a member of the NYPD. Lt. Brovakos revoked the PBA card during the incident and explained to § 87(2)(b) that PBA cards carry language stating that any officer may revoke the card. § 87(2)(b) recounted that, in explaining why he was revoking the PBA card, Lt. Brovakos asked if § 87(2)(b) cousin knew that he was not supposed to be associating with a “convicted felon” or a “known felon.” § 87(2)(b) retorted that he had never been convicted of any crimes, and Lt. Brovakos asked him if he truly had never been locked up for any shootings. § 87(2)(b) believed that Lt. Brovakos assumed he was a felon because of his race.

§ 87(2)(b) cellphone footage shows that Lt. Brovakos said, “You know he’s not allowed to associate with known felons,” in reference to § 87(2)(b) cousin (BR03, 01:19). § 87(2)(b) responds, “I’m not a known felon.” Lt. Brovakos then asks § 87(2)(b) “You weren’t arrested for shootings?”

§ 87(2)(b) says that he has never been convicted of any crimes and Lt. Brovakos clarifies that he was not asking if § 87(2)(b) had been “convicted.”

PO Smith testified that he had run § 87(2)(b) name and found that § 87(2)(b) had an arrest history, including one arrest involving a gun or weapon of some kind. He showed Lt. Brovakos these results on his phone during the incident. Lt. Brovakos acknowledged that he made the remark seen in the video footage because he was trying to help § 87(2)(b) understand why he was revoking the PBA card. He denied that he made the remark due to § 87(2)(b) race or that he was trying to imply anything about § 87(2)(b) race.

Patrol Guide Procedure 200-02 states that officers must, “maintain a higher standard of integrity than is generally expected of others,” and conduct themselves with “courtesy and civility” (BR17).

It is clear that Lt. Brovakos called § 87(2)(b) a felon despite lacking any indication that § 87(2)(b) had been convicted of a felony. § 87(2)(g)

Based on the video evidence, however, it is clear that Lt. Brovakos made the remark in the context of explaining why he was revoking the PBA card. § 87(2)(g)

Allegation (K) Abuse of Authority: In front of 506-528 Utica Avenue in Brooklyn, Lieutenant Timothy Brovakos seized § 87(2)(b) property.

§ 87(2)(b) testified that Lt. Brovakos obtained his license and registration at the beginning of the incident, and still had it when the stop concluded. Lt. Brovakos began to walk away, and § 87(2)(b) reminded him that he still had his documents. Lt. Brovakos returned the license and left the scene. § 87(2)(b) realized shortly after that Lt. Brovakos still had his registration. He believed Lt. Brovakos intentionally withheld his registration based on how quickly he drove away. § 87(2)(b) drove around the area and found the officers turning right off of Remsen Avenue onto Rutland Road in Brooklyn. He had a conversation with the officers and asked for his registration back. Lt. Brovakos left the car, approached § 87(2)(b) and returned his registration.

§ 87(2)(b) first cellphone video shows that he asked Lt. Brovakos where his license was, and Lt. Brovakos took it out of his pocket and gave it back to § 87(2)(b) (BR03, 02:15). This exchange is also seen in Lt. Brovakos’s BWC footage (BR07, 08:08). § 87(2)(b) second cellphone video captures his later interaction with Lt. Brovakos (BR04, 00:09). He gets the officers’ attention and asks for his registration back. He speaks with Lt. Brovakos about his cellphone, seatbelt, and summonses and then reiterates that he is looking for his registration. They continue to argue until, at 00:56, § 87(2)(b) again asks for his registration. Lt. Brovakos says that he does not believe they have his registration. However, at 01:16, Lt. Brovakos hands § 87(2)(b) a piece of paper consistent with the size and shape of a car registration. There is no BWC footage of § 87(2)(b) second interaction with the officers.

Lt. Brovakos recounted later happening upon § 87(2)(b) vehicle stopped in the middle of the road and having a conversation with him, but he could not recall if § 87(2)(b) said the officers still had his documents. He reviewed the cellphone footage and confirmed that he saw § 87(2)(b) receive a piece of paper, although he could not see who gave it to him. Lt. Brovakos believed the officer’s voice sounded like his, but he still could not recall this part of the second interaction.

Patrol Guide Procedure 218-30 (BR25) defines contraband as any property which is illegal to

possess under all circumstances. Whenever officers take non-contraband property from the person or possession of any individual, and when the property is taken into police custody for any reason, the officers must vouch for the property and give the person a property receipt for it (*emphasis original*).

The video footage makes clear that Lt. Brovakos left the first incident in possession of § 87(2)(b) registration, and that he returned it once § 87(2)(b) found the officers and asked for it back multiple times. The investigation cannot determine whether Lt. Brovakos kept the registration deliberately.

§ 87(2)(g)

Allegation (L) Abuse of Authority: In front of 506-528 Utica Avenue in Brooklyn, Lieutenant Timothy Brovakos failed to provide § 87(2)(b) with a business card.

Allegation (M) Abuse of Authority: In front of 506-528 Utica Avenue in Brooklyn, Police Officer Jason Schreckenstein failed to provide § 87(2)(b) with a business card.

Allegation (N) Abuse of Authority: In front of 506-528 Utica Avenue in Brooklyn, Police Officer Craig Smith failed to provide § 87(2)(b) with a business card.

§ 87(2)(b) testified that Lt. Brovakos, PO Schreckenstein, and PO Smith did not provide him with a business card. § 87(2)(b) did not request a card from any of the officers.

Lt. Brovakos acknowledged that he did not provide a business card to § 87(2)(b). He did not provide a card because § 87(2)(b) did not ask for one and Lt. Brovakos had already provided his name and rank. He did not believe that he was required to provide a card, but he would always provide one when required. In his interview, Lt. Brovakos openly testified that he did not “have the intelligence level right now” to state the circumstances under which he is required to provide a business card, and that he felt that he needed to brush up on procedure. PO Schreckenstein testified that he had business cards at the time of the incident but did not provide one. He did not provide a card because § 87(2)(b) did not ask for one and the stop did not require it. PO Schreckenstein understood that officers are sometimes required to provide their cards, but, in this instance, he was not required to provide one. He believed that car searches do not require officers to provide a business card. PO Smith stated that he did not provide a business card because he ran out of cards earlier that night.

Officers must offer a business card at the conclusion of certain law enforcement activities to the subject of that law enforcement activity, when such activity does not result in an arrest or summons. Frisks, searches of persons, and vehicle searches are among the particular law enforcement actions which trigger the requirement to offer a card regardless of whether the subject requests one. If an officer runs out of pre-printed cards, he must offer to provide the information on a hand-written card, or to offer to provide the information verbally if no blank cards are available. NYC Administrative Code § 14-174 (BR21)

It is clear that the officers were required to proactively offer business cards to § 87(2)(b) and that they failed to do so. § 87(2)(g)

Allegation (O) Abuse of Authority: At Rutland Road and Remsen Avenue in Brooklyn, Lieutenant Timothy Brovakos interfered with § 87(2)(b) use of a recording device.

As § 87(2)(b) drove around in search of the officers, he began filming with his cellphone to document the incident. When he flagged down the officers, he stopped his car in the roadway beside their vehicle.

§ 87(2)(b) cellphone footage shows him holding his phone up to the driver's side window to record in-sight of Lt. Brovakos (BR04, 00:09). Lt. Brovakos says, "Firstly, you're driving with a cellphone in your hand. You can't do that." § 87(2)(b) responds, "I'm recording." Lt. Brovakos then tells him, "You're not allowed to drive with a cellphone in your hand," and mentions that § 87(2)(b) also does not have his seatbelt on. § 87(2)(b) car rolls forward a foot or two, which Lt. Brovakos notes aloud. § 87(2)(b) says he put the car in park. Lt. Brovakos then says something about § 87(2)(b) getting a summons and says, "Put your phone down. Put your phone down so... (inaudible) a YouTube video, okay?" § 87(2)(b) tells him that the video is for his lawyer. Lt. Brovakos then asks if he has a lawyer and § 87(2)(b) says yes. Lt. Brovakos and § 87(2)(b) argue about the original stop 01:15, when Lt. Brovakos asks, "You gonna put your phone down or not?" § 87(2)(b) says, "Definitely," and puts the phone in his lap and continues to record.

Lt. Brovakos did not initially recall discussing § 87(2)(b) cellphone during the second interaction. After reviewing the cellphone footage, he confirmed that he asked § 87(2)(b) to put the phone down because motorists are prohibited from holding and using phones while driving, and because § 87(2)(b) vehicle remained running and in traffic.

Patrol Guide Procedure 203-29 (BR19) states that a civilian's right to record can be limited when a violation of law is committed by the person who is filming.

The video footage indicates that, from the very start, Lt. Brovakos tied his directive that § 87(2)(b) put down his phone to the fact that § 87(2)(b) was operating a running vehicle in traffic § 87(2)(b).

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Allegation (P) Discourtesy: At Rutland Road and Remsen Avenue in Brooklyn, Lieutenant Timothy Brovakos spoke discourteously to § 87(2)(b)

In the cellphone footage from the second interaction, § 87(2)(b) remarked that Lt. Brovakos did not live in the area and that Lt. Brovakos should police his own neighborhood (BR04, 2:00). Lt. Brovakos responds, "Honestly, I wish I didn't have to work down here just so I didn't have to hear this bullshit."

Lt. Brovakos confirmed that he used the word "bullshit." He testified that he used it as a descriptive word meaning nonsense, and not as a profanity. He added, "It's a legitimate word in the dictionary, not a curse word," and he said that he would use the word at the family dinner table.

Patrol Guide Procedure 200-02 states that officers must, "maintain a higher standard of integrity than is generally expected of others," and conduct themselves with "courtesy and civility" (BR17). NYPD Disciplinary Case No. 76927/04 (2004) ruled that, "When a police officer uses an otherwise impolite word during a stressful street encounter where that officer is attempting to maintain control of the situation, the police officer's verbal slip does not rise to the level of actionable misconduct" (BR18).

The interaction was not a chaotic or stressful encounter in which Lt. Brovakos used profanity merely to emphasize an order or to maintain control. On the contrary, the footage shows that he used the word to negatively characterize § 87(2)(b) complaints about his behavior. § 87(2)(g)

Allegation (Q) Abuse of Authority: At Rutland Road and Remsen Avenue in Brooklyn, Lieutenant Timothy Brovakos threatened to remove § 87(2)(b) to the hospital.

§ 87(2)(b) testified that Lt. Brovakos asked him if he wanted to talk to someone in the hospital. § 87(2)(b) feared that Lt. Brovakos was threatening to beat him up and send him to the hospital. He also believed Lt. Brovakos was implying that § 87(2)(b) was psychotic, in mental distress, and in need of psychiatric medical treatment.

§ 87(2)(b) cellphone footage captures Lt. Brovakos and § 87(2)(b) arguing about the stop. Lt. Brovakos interjects, “Do you want to talk to somebody at the hospital? You’re very amped up (BR04, 03:18).” § 87(2)(b) asks what he means and Lt. Brovakos says that he is giving him “the opportunity to speak to somebody.” § 87(2)(b) says he takes that remark as a threat which Lt. Brovakos immediately disputes by saying, “No, what I mean is, do you need to speak to a mental health professional?” § 87(2)(b) asks Lt. Brovakos if he looks like he has “mental issues,” and Lt. Brovakos replies, “You’re starting to seem like you do.” After § 87(2)(b) asks for the basis of that assessment, Lt. Brovakos tells him it is because he is ranting. Lt. Brovakos ends the conversation by telling § 87(2)(b) to “get over it” and says, “I wish you the best of luck. Take care.”

Lt. Brovakos testified that he intended to offer § 87(2)(b) an opportunity to get hospital care. It is his responsibility to offer medical attention if needed. § 87(2)(b) seemed conflict-prone, agitated, and mad at the police. However, Lt. Brovakos ultimately determined that he was just upset and not in need of medical attention.

Lt. Brovakos never explicitly threatened to remove § 87(2)(b) to the hospital. § 87(2)(b) detected an implicit threat in Lt. Brovakos’ question. The investigation cannot determine exactly what Lt. Brovakos was thinking at the moment he made the remark. However, it is clear that Lt. Brovakos immediately made clear to § 87(2)(b) that he was merely offering medical attention and was not threatening him. Lt. Brovakos then quickly ended the interaction. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- Lt. Brovakos has been a member of the NYPD for 15 years and has been named a subject in 23 prior CCRB complaints and 67 allegations, five of which were substantiated:
 - #201500206 involved a substantiated vehicle search allegation against Lt. Brovakos. The Board recommended Command Discipline B. The NYPD imposed Formalized Training.
 - #201905132 involved a substantiated discourtesy allegation against Lt. Brovakos. The Board recommended Command Level Instructions. The NYPD imposed Instructions.

- #201910398 involved substantiated allegations of vehicle stop, discourtesy, and failure to provide business card against Lt. Brovakos. The Board recommended Command Discipline A, but the NYPD took no disciplinary action.
- Five of the prior complaints against Lt. Brovakos, involving 25 allegations, remain under investigation.
- Lt. Brovakos is a subject in 12 complaints, involving 61 allegations, which were filed after the incident in this present complaint. None of those allegations has been substantiated, and 47 of them remain under investigation.
- PO Schreckenstein has been a member of the NYPD for eight years and has been named a subject in two prior CCRB complaints and eight allegations, one of which was substantiated:
 - #202006659 involved a substantiated discourtesy allegation against PO Schreckenstein. The Board recommended Command Discipline A. The NYPD has not yet imposed discipline.
 - § 87(2)(g)
- PO Smith has been a member of the NYPD for eight years and has been named a subject in one prior CCRB complaint and one allegations, which was not substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of March 29, 2021, the NYC Office of the Comptroller has no record of any Notice of Claim being filed regarding this incident (**BR11**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 5

Investigator:	_____ Signature	_____ Print Title & Name	_____ Date
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Squad Leader:	<u>Daniel Giansante</u> Signature	<u>IM Daniel Giansante</u> Print Title & Name	<u>May 16, 2022</u> Date
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Reviewer:	_____ Signature	_____ Print Title & Name	_____ Date
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